

BOARD OF ZONING APPEALS

MINUTES

6:30 PM

February 17, 2016

City Council Chambers

MEMBERS PRESENT: Leanne Cardoso, George Papandreas, Jim Shaffer, and Linda Herbst

MEMBERS ABSENT: Bill Burton

STAFF: Christopher Fletcher, AICP and John Whitmore, AICP

I. **CALL TO ORDER AND ROLL CALL:** Cardoso called the meeting to order at 6:30 p.m. and read the standard explanation of the how the Board conducts business and rules for public comments.

II. **MATTERS OF BUSINESS:**

A. **Minutes for the January 20, 2016 hearing:** Minutes for the January 20, 2016 hearing were postponed due to lack of quorum.

III. **UNFINISHED BUSINESS:** None.

IV. **NEW BUSINESS:**

A. **V16-01 / Phillips / 1041 Curtis Street:** Request by Lisa Mardis of Project Management Services, on behalf of David Phillips, for variance relief from Article 1335.04 concerning a side setback encroachment; Tax Map 41, Parcels 365 and 366; R-1A, Single-Family Residential District.

Fletcher presented the Staff Report.

Cardoso recognized Lisa Mardis of Project Management Services who clarified that the words used within the application submission were not intended to suggest that there was an error done by the Planning Department but rather an oversight occurred with the project as a whole. Mardis explained the owners did not know they were encroaching onto a property line and were notified when the project was almost complete when a complaint was filed with the Code Enforcement Office. Mardis noted that other properties within the neighborhood have similar encroachments and the approval of said variance will increase the property value to their home and to the neighborhood.

A letter of support was passed around to the Board members that was received by Staff. Cardoso read the letter aloud that was submitted by Hank and Jennifer Burton, next door neighbors to the petitioners.

There being no comments or questions by the Board, Cardoso asked if anyone was present to speak in favor of or in opposition to the petitions.

Cardoso recognized Brooke Phillips of 1041 Curtis Street who submitted a letter to the Board members. Cardoso read the letter aloud which explained the applicants are first time homebuyers and if the variance is not approved then it would put them in financial ruin.

There being no further comments, Cardoso declared the public hearing closed and asked for Staff recommendations.

Fletcher read the Staff recommendations.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for V16-01 as presented; seconded by Herbst. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The proposed variance will not cause alternate encroachment issues on the realty, such as the front or rear property. It appears that the encroachment will only affect one parcel. However, the adjacent structure is situated far from the property boundary.

The newly constructed attached two-car garage and living space should improve the property value and the value of the properties within the neighborhood. The proposed side setback encroachment should not harm public interests or the rights of adjacent property owners as the area has been, according to the petitioner, maintained and used as part of the residential property of 1041 Curtis Street.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The existing home was constructed with an attached car port and a small amount of livable square footage. In order to improve their home and increase the property value, Mr. and Mrs. Phillips hired a contractor and secured a building permit. It was not until the two story garage and living space was near completion that an error was discovered.

According to the petitioner, when the Phillips moved into the residence, seven years ago, discussion ensued with the adjacent property owner in regards to the location of the side property line.

After obtaining consent from the adjacent property owner, this property was maintained and used by the Phillips as if it were their property for seven years.

According to the petitioner, for seven years the Phillips have resided at 1041 Curtis Street, with the belief that their realty extended to the fence line.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The additional square footage and two car garage should increase the property values of this and area properties.

Similar to variance case V15-23 on Riverview or V15-20 on Addison Circle, the hardship arises due to the fact that the increased property value and potential increased square footage inevitably requires a garage for most home buyers of the compatible homes on this street and area.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The two-car garage and increased square footage of living space will increase the property value of this home and surrounding properties. The variance will allow improved property's contribution to the surrounding built environment. Variance relief will permit the completion of an addition on to a single-

family dwelling on a newly combined parcels that meet R-1A District minimum lot frontage and minimum lot area standards.

Papandreas moved to approve V16-01 as requested without conditions; seconded by Herbst. Motion carried unanimously.

Cardoso reminded Ms. Mardis that the Board's decisions can be appealed to Monongalia County Circuit Court within thirty (30) days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

- B. V16-02 / UClub Sunnyside / 2188 University Avenue:** Request by Jeremy Roberts, on behalf of ACC OP (Uclub Sunnyside), LLC, for variance relief from Article 1369 concerning signage at 2188 University Avenue; Tax Map 20, Parcel 187; R-3 Multi-Family Residential District.

Whitmore presented the Staff Report. Whitmore noted a letter in opposition written by Jan Kiger was received by Staff and read the letter aloud to the Board members.

Cardoso recognized Merritt Lawn on behalf of Uclub Sunnyside who concurred with the Staff Report and noted the sign would be large enough so emergency vehicles could locate the correct building if needed. Merritt explained the sign for the retaining wall would be affixed to the stone wall and the simple sign is found around the country at their other locations.

There being no comments or questions by the Board, Cardoso asked if anyone was present to speak in favor of or in opposition to the petitions. There being no comments, Cardoso declared the public hearing closed and asked for Staff recommendations.

Whitmore read the Staff recommendations.

Cardoso inquired if the retaining wall would be considered a structure and if a sign would be appropriate hanging from the wall. Papandreas expressed the retaining wall is a structure and the sign affixed to the retaining wall is appropriate as there is no other location to place the sign. Cardoso agreed the retaining wall should be considered a structure.

Papandreas made a motion to treat a retaining wall as a structure for determining a free-standing sign; seconded by Shaffer. Motion carried unanimously.

Papandreas stated the sign would be too small without the variance as the building is larger in size.

Shaffer made a motion to find in the affirmative for the all the Findings of Facts for V16-02 as revised by Staff; seconded by Papandreas. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The subject signs appear to be secure, flush mount, non-lit style signs. They appear to be engineered and attached with multiple steel and aluminum bolts using concealed clip mounts. The signs are within property boundaries and will not overhang-walkways, nor obstruct adjacent views.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The location of the property, with existing hillside trees and curvature of the road, appears to prohibit adequate time to recognize the property for residents, guests and emergency vehicles. Additionally, the length of the property appears to necessitate signs communicating to pedestrians at the principle building entrance and vehicles at the driveway entrance.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The variance for a larger signs will eliminate the unnecessary hardship of residents, guests and emergency vehicles not being able to identify the property. The inability to locate the residence could cause traffic accidents or delays in emergency to the property.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The increased size of the signs will be an effective means to communicate with the pedestrian and motorize public at relevant locations. It should improve traffic safety.

Papandreas moved to approve V16-02 as requested without conditions; seconded by Herbst. Motion carried unanimously.

Cardoso reminded Mr. Lawn that the Board's decisions can be appealed to Monongalia County Circuit Court within thirty (30) days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

- C. V16-05 / Dawson / 1525 Hyatt Avenue:** Request by Timothy and Stephanie Dawson for variance relief from Article 1335.04 concerning a front and rear setback encroachment at 1525 Hyatt Avenue; Tax Map 23, Parcel 25 and part of Parcel 27; R-1A, Single-Family Residential District.

Whitmore presented the Staff Report.

Cardoso recognized Timothy Dawson of 262 Donna Avenue who stated he intends to build a single-family dwelling on a lot that is currently vacant. Dawson noted the house was designed to fit the lot which requires variance relief to avoid hardship.

Cardoso asked for Dawson to list the issues involved with the lot. Dawson explained the width and depth of the lot have been a challenge. An additional parcel was purchased and a minor subdivision was obtained in order to meet the side setback requirements. Dawson explained there are safety concerns with the slope of the land so the house was designed to move back in order to obtain off-street parking.

Cardoso asked how the proposed plan would lessen the off-street parking issue. Dawson explained there would be an additional 5 feet so that people driving down the street would be able to see someone backing out of the driveway.

Papandreas asked why the plan was designed the way it was proposed. Dawson explained there is a street to the rear of the property. By moving the house back it will allow for a walk out basement as there is a slope toward the back of the property. However, the house will sit lower than the street which will require backing up a hill.

There being no further comments or questions by the Board, Cardoso asked if anyone was present to speak in favor of or in opposition to the petitions. There being no comments, Cardoso declared the public hearing closed and asked for Staff recommendations.

Whitmore read the Staff recommendations.

Shaffer expressed the topography of the land is appropriate for variance relief. Cardoso agreed.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for V16-05 as revised by Staff; seconded by Shaffer. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

This request will only affect one single-family residence lot and should have no effect on the public health, safety or welfare, or the rights of adjacent property owners or residents.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The lot's slope and depth restrict the development of a newly constructed single-family residence to allow adequate parking depth without encroaching into the rear setback and effectively utilizing on increased front setback. The irregularly shaped parcel and zoning requirements (setbacks) appear to prevent safe and adequate off-street parking.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

Variance relief will permit the construction of a single-family residence on a newly created irregularly shaped parcel. Variance relief should not create other unnecessary hardships because the rear of the property abuts Deland Avenue, which is not open.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

Variance relief will permit the necessary depth for off-street parking to promote / improve safety and visibility while entering and exiting the newly constructed single-family residence for the residents and those traveling the narrow street of Hyatt Avenue. The proposed setback distances appear to be consistent with surrounding properties with similar attributes.

Papandreas moved to approve V16-05 as requested without conditions; seconded by Herbst. Motion carried unanimously.

Cardoso reminded Mr. Dawson that the Board's decisions can be appealed to Monongalia County Circuit Court within thirty (30) days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

- D. V16-06 / Denny's Corporation / 258 Retail Circle:** Request by William F. Gatian, on behalf of Denny's Corporation, for variance relief from Article 1367.08 concerning parking lot landscape requirements at 258 Retail Circle; Tax Map 64, Parcel 4; B-5, Shopping Center District.

Fletcher presented the combined Staff report for V16-06 and V16-08.

Cardoso recognized William Gatian of 258 Retail Circle who concurred with the Staff report.

Cardoso asked for additional information on the three islands and why they weren't constructed. Gatian explained that trucks were running over the islands and the Morgantown Fire Department is not able to maneuver around the islands. Gatian also noted that garbage trucks are not able to pull in to get access to the dumpster.

Cardoso asked if there are any objections to combining the public hearings for V16-06 and V16-08. There being none, Cardoso asked if customers are parking randomly in the black spaces. Gatian confirmed.

There being no further comments or questions by the Board, Cardoso asked if anyone was present to speak in favor of or in opposition to the petitions. There being no comments, Cardoso declared the public hearing closed and asked for Staff recommendations.

Fletcher read the Staff recommendations for V16-06.

Papandreas agreed the islands are not necessary as they are difficult to maneuver in a vehicle.

Shaffer made a motion to find in the affirmative for the all the Findings of Facts for V16-06 as revised by Staff; seconded by Papandreas. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The removal of the terminal islands should enhance maneuvering of first responders by easing access routes through the subject parking lot. This does not adversely affect the public health, safety or welfare of anyone.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

Cheat Road Engineering did run AutoTURN modeling for the appropriate fire and garbage truck apparatus in the approved site plan. In reality, however, the geometry and radius needs of the Morgantown Fire Department were not able to be met with the proposed island locations.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The maneuverability through the parking lot for first responders is critical to ensure the most efficient speed of service in the event of an accident/emergency.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The safety and wellbeing of everyone on the property should prevail.

Shaffer moved to approve V16-06 as requested without conditions; seconded by Papandreas. Motion carried unanimously.

- E. V16-08 / Denny's Corporation / 258 Retail Circle:** Request by William F. Gatian, on behalf of Denny's Corporation, for variance relief from Article 1365 concerning maximum number of parking spaces at 258 Retail Circle; Tax Map 64, Parcel 4; B-5, Shopping Center District.

Fletcher read the Staff recommendations for V16-08.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for V16-08 as revised by Staff; seconded by Herbst. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Additional parking spaces available in the lot to customers will prevent and/or alleviate customers using adjacent business parking lots while patronizing the Denny's restaurant, rather than the adjacent business parking lot.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

According to the petitioner, the initial flow of business has been greater than anticipated and the lot has overflowed into the property of the adjoining shopping plaza on our left.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

Grate Enterprise has the paved area to facilitate additional parking.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

Employees as well as patrons will park on property avoiding spillover parking on to adjacent property. Spillover parking onto the neighbor's parking lot could potentially confuse potential customers of those businesses that might perceive those businesses as being full or having wait times that may turn those possible customers away to find other locations that don't have wait times.

Shaffer moved to approve V16-08 as requested without conditions; seconded by Papandreas. Motion carried unanimously.

Cardoso reminded Mr. Gatian that the Board's decisions can be appealed to Monongalia County Circuit Court within thirty (30) days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

- F. **CU16-02 / AutoZone Parts, Inc. / 824 Monongahela Blvd:** Request by Jeff Berneburg, on behalf of AutoZone Parts, Inc., for conditional use approval of an "Automotive Supply" located at 824 Monongahela Blvd; Tax Map 15, Parcel 157; B-2, Service Business District.

Whitmore read the combined Staff report for CU16-02, V16-03, V16-04 and V16-07.

Cardoso asked if there were any objections for combining the public hearing for CU16-02, V16-03, V16-04 and V16-07. There being none, Cardoso invited the petitioner to the podium.

Cardoso recognized Jeff Berneburg on behalf of AutoZone Parts, Inc. who explained the existing structures on the property will be razed in order to construct a new AutoZone parts store. Berneburg explained a conditional use is necessary to erect the store and the parcel is irregular in shape which creates a challenge and requires a setback encroachment variance. Berneburg noted that trucks will have difficulty maneuvering onto the site unless variance relief is approved for landscape islands.

Cardoso recognized Brian Seddle on behalf of AutoZone Parts, Inc. who stated the proposed signage was significantly reduced after suggestions were made from Staff. Seddle noted that Staff recommended using the existing post and panel signage that is currently located on the property. Seddle explained where the signage would be located and noted the signs would allow visibility from Monongahela Blvd.

Shaffer asked if there would be lighting to the pole sign. Seddle explained that the existing sign will be lit until 9PM.

There being no further comments or questions by the Board, Cardoso asked if anyone was present to speak in favor of or in opposition to any of the AutoZone related petitions. There being no public comments, Cardoso declared the public hearing closed and asked for Staff recommendations.

Whitmore read the Staff recommendations for CU16-02.

Shaffer made a motion to find in the affirmative for the all the Findings of Facts for CU16-02 as presented by Staff; seconded by Papandreas. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 1 – Congestion in the streets is not increased, in that:

The site redevelopment for the AutoZone Store will involve the demolition of all existing structures on site. Site access to Monongahela Boulevard will be improved by closing the Two (2) existing driveways and Constructing one (1) new 30' – 0" wide full access driveway to Monongahela Boulevard per WV. D.O.T. requirements. This new driveway & site layout will improve on site vehicle circulation & provide better highway access to Monongahela Boulevard for the new AutoZone Store.

Finding of Fact No. 2 – Safety from fire, panic, and other danger is not jeopardized, in that:

The site for AutoZone will have only one (1) 6,816 – Sq. Ft. single story masonry structure for the retail sale of Auto Parts. Parking will be provided for 26 new parking spaces and no on-site work on vehicles will be provided by AutoZone.

Finding of Fact No. 3 – Provision of adequate light and air is not disturbed, in that:

AutoZone will be providing two (2) on-site lot light poles as noted on the Site Photometric Lighting Plan Sheet PH1.0. Lot lighting will be directional on site lighting that is timer controlled to turn off outside lot Lighting within approximately one hour after store closing hours.

Finding of Fact No. 4 – Overcrowding of land does not result, in that:

One single-story AutoZone Store structure, 6,816 Sq. Ft. is proposed along with providing 26 parking spaces as required with a 14' X 60' loading area located to the northern side of the building and associated site/landscaping improvements. More green space is provided than what currently exists is on-site.

Finding of Fact No. 5 – Undue congestion of population is not created, in that:

The proposed AutoZone Store will not generate any undue congestion of population for the retail sales of auto parts. AutoZone will provide new employment opportunities on an average of 12-15 new employee positions for the AutoZone store.

Finding of Fact No. 6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

The granting of this request will not create any inadequate provisions of transportation, water, sewage, schools, parks or other public requirements in that AutoZone is improving access to the site with the removal of the two existing driveways and providing a new driveway access to Monongahela Boulevard to improve customer access and site circulation.

Finding of Fact No. 7 – Value of buildings will be conserved, in that:

The existing two structures and fuel canopy from the gas service island will be demolished and disposed of per applicable disposal requirements. The site will be cleared of all remaining existing improvements, thus improving the value of the site.

Finding of Fact No. 8 – The most appropriate use of land is encouraged, in that:

With the site redevelopment project that AutoZone is proposing it will offer significant improvements to the value of the property and improve the general safety concerning customer access on and off of the site via the new driveway improvements as well as improving the sidewalks along Monongahela Boulevard fronting the property.

Shaffer moved to approve CU16-02 as requested without conditions; seconded by Herbst. Motion carried unanimously.

- G. V16-03 / AutoZone Parts, Inc. / 824 Monongahela Blvd:** Request by Jeff Berneburg, on behalf of AutoZone Parts, Inc., for variance relief from Article 1347.04 concerning a front setback encroachment at 824 Monongahela Blvd; Tax Map 15, Parcel 157; B-2, Service Business District.

Whitmore read the Staff recommendations for V16-03.

Shaffer made a motion to find in the affirmative for the all the Findings of Facts for V16-03 as submitted by petitioner; seconded by Papandreas. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The variance being requested from the minimum building setback requirements from Monongahela Boulevard is due to the steep grading to the Northern side of this property. The grading proposed from the northern AutoZone Store parking lot area to the northern property line has an approximately

elevation difference of 21 feet. Retaining walks are proposed with this site redevelopment project to get the building moved as far back as possible to meet the intent of this setback requirement.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The existing grading prohibits the building to be moved any further to the north to avoid any further encroachment into the building setback line as provided.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

With the granting of this variance it will permit the proposed use of the property to be redeveloped with minimal encroachment that will keep within in the reasonable use of the neighborhood.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

This variance if granted will allow the intent of the ordinance to be observed and will not have any adverse impact to the property or neighboring properties.

Papandreas moved to approve V16-03 as requested with staff recommended condition; seconded by Herbst. Motion carried unanimously.

NOTE: The following condition was included in the motion: That side and rear setback standards must be observed for the development.

H. V16-04 / AutoZone Parts, Inc. / 824 Monongahela Blvd: Request by Jeff Berneburg, on behalf of AutoZone Parts, Inc., for variance relief from Article 1367.08 concerning parking lot landscape requirements at 824 Monongahela Blvd; Tax Map 15, Parcel 157; B-2, Service Business District.

Whitmore read the Staff recommendations for V16-04.

Shaffer made a motion to find in the affirmative for the all the Findings of Facts for V16-04 as submitted by petitioner; seconded by Papandreas. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Clear and obstructed internal truck circulation is needed for the weekly delivery of merchandise for the AutoZone delivery truck. Providing the Terminal Islands within the parking lot areas will prohibit the unobstructed circulation needed for the AutoZone's delivery truck. Variance relief is being requested to not provide the required Interior Landscape Areas and Terminal Islands in an effort to provide clear and obstructed circulation. To permit the travel circulation within the parking lot area that is needed for the delivery truck the request for these variances are requested. The variance relief being requested will not have any impact to the general public health, safety or welfare of the adjacent property owners will not be impacted.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

Due to the irregular shape of the property it creates a narrow site to the west that restricts a full developed area as is available to the eastern side of the property, thus creating the need for these variances being requested.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The granting of the landscape variances being requested will permit the unobstructed truck travel on-site for the weekly delivery and restocking of merchandise.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The variances being requested will allow the intent of the ordinance be observed with the amount of green space being provided that is currently not provided with existing site conditions.

Papandreas moved to approve V16-04 as requested with staff recommended condition; seconded by Herbst. Motion carried unanimously.

NOTE: The following condition was included in the motion: That landscaping occur only to the degree that the minimum parking requirement can still be met.

- I. **V16-07 / AutoZone Parts, Inc. / 824 Monongahela Blvd:** Request by Briana Bus of Jones Sign, on behalf of AutoZone Parts, Inc., for variance relief from Article 1369 concerning signage at 824 Monongahela Blvd; Tax Map 15, Parcel 157; B-2, Service Business District.

Whitmore read the Staff recommendations for V16-07.

Shaffer made a motion to find in the affirmative for the all the Findings of Facts for V16-07 as submitted by petitioner; seconded by Papandreas. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The proposed sign package in this variance request will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, but rather it will enhance AutoZone's corporate identity to consumers. It is also a way for AutoZone to stay competitive with businesses offering the same services. AutoZone is going into a location which is located along a highly traveled road so the proposed signs for the location would not be a detriment to the surrounding property owners or residents, but rather well-suited because of the route and the surrounding businesses in the area. The wall signage will be aesthetically pleasing and will have consistent letter height on the building elevations. The post and panel sign will not be overbearing and will complement the size of the building and the lot. The signs will comply with the requirements of the West Virginia State Building Code and Electrical Code.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The need for the requested variances arises from the size, location, and zoning of the property. In order for AutoZone to be able to be competitive at this location, sufficient signs on two (2) elevations of the building are necessary to draw attention to the site. The literal enforcement of the sign regulations will create a hardship for AutoZone with a lack of recognition by passing customers, hence loss in anticipated sales. In regard to the existing post and panel sign, the property is zoned B-2, and according to the Planning & Zoning Code, Table 1369.06.01, post and panel signs are permitted in the B-2 district. We are requesting a variance to keep the existing Exxon Mobil post and panel sign because there is a lack of visibility if customers are coming from the west. View of the majority of AutoZone's site is blocked by Advanced Auto Parts' building. The property is also located directly to

the west of an area zoned B-2 with an overlay district, where multiple businesses have post and panel or pole signs taller than the standard 6 foot height allowance. These businesses include Double Dutch Confections, Mountaineer Manor Barbering & Styling, and Clutch Wing Shop, among others. AutoZone's sign will be in line with what some nearby businesses have. When Exxon closed, the post and panel sign was not removed. While U-Haul was conducting business at this property, the sign remained in place. The setback and under clearance is adequate to protect the clear sight for drivers.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

Granting of the variance for the proposed sign package will allow AutoZone to keep the existing Exxon Mobil post and panel sign, which will be visible above Advanced Auto Parts building located to the west of AutoZone's property. Allowance of that sign will ensure visibility for customers coming from the west of the property, and the requested wall signs will help customers recognize the new AutoZone store and there will be no loss of anticipated sales. The retail auto parts store is allowed in the B-2 zoning district and will contribute to a growing economy in Morgantown.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The purposes of the City's commercial sign regulations are, in summary: to encourage the effective use of signs as a means of communication; to maintain and enhance the pleasing look of the City, which attracts continued economic investment to the City; to preserve Morgantown as a community that is attractive to business, to residents and to visitors; and to minimize the possible adverse effects of signs on nearby public and private property. The sign variances will allow the intent of the zoning ordinance to be observed and substantial justice done because AutoZone's store will be visible and the signage will be effective, aesthetically pleasing, in good taste, and will attract more customers to this specific area in the City.

Shaffer moved to approve V16-07 as requested with recommended condition; seconded by Papandreas. Motion carried unanimously.

NOTE: The following condition was included in the motion: That all signs may not be illuminated during the time when the establishment is closed to the public.

Cardoso reminded Mr. Seddle and Mr. Berneburg that the Board's decisions can be appealed to Monongalia County Circuit Court within thirty (30) days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

V. ANNOUNCEMENTS:

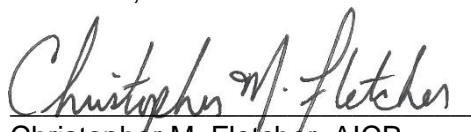
- Fletcher introduced John Whitmore to the Board members.
- Cardoso announced her resignation and that this will be her last meeting as a member of the Board. She thanked members of the Board and Staff for their work.

VI. ADJOURNMENT: 7:44 PM

MINUTES APPROVED:

March 16, 2016

BOARD SECRETARY:


Christopher M. Fletcher, AICP